



Planning Commission Staff Report

September 22, 2010

Item 4.a.

SUBJECT: PAP-148 (PDRW-38)

APPELLANT: Mark Lobaugh/Complete Wireless Consulting Inc.

APPLICANT: Mark Lobaugh/Complete Wireless Consulting Inc.

PROPERTY OWNER: City of Pleasanton

PURPOSE: Appeal of the Zoning Administrator's denial of design review application for the construction of a 65-foot tall faux pine tree to be operated as a wireless facility for Verizon Wireless

GENERAL PLAN: Business Park

ZONING: PUD-I/C-O (Planned Unit Development – Industrial/Commercial-Office) District

LOCATION: 6890 Koll Center Parkway (Bernal Corporate Business Park)

ATTACHMENTS:

1. Exhibit A -- Draft Conditions of Approval
2. Exhibit B -- Proposal (Plans, Photo Simulations and RF report)
3. Exhibit C -- Zoning Administrator's Denial Letter
4. Exhibit D -- Lease with Verizon Wireless
5. Exhibit E -- Appeal Letter
6. Exhibit F -- Location Map
7. Exhibit G -- Notification Map

BACKGROUND

Section 18.110.020 of the Pleasanton Municipal Code (Personal Wireless Service Facilities) authorizes the Zoning Administrator to take action on design review applications of all personal wireless service facilities. On August 4, 2010, the Zoning Administrator denied a design review application (PDRW-38) for a wireless telecommunication facility to be located at the City's pump station facility located at 6890 Koll Center Parkway due to the applicant's failure to provide information required by the Municipal Code, and thus, the application failed to meet the wireless ordinance requirements.

On August 19, 2010, Mark Lobaugh, applicant, filed an appeal of the Zoning Administrator's denial, arguing that the subject site meets the requirements of the ordinance.

SITE DESCRIPTION

The subject site is located in the northwestern corner of Bernal Corporate Business Park. The site abuts I-680 on the west, the Arroyo Del Valle on the north, and commercial/offices uses within the same business park on the south and east.

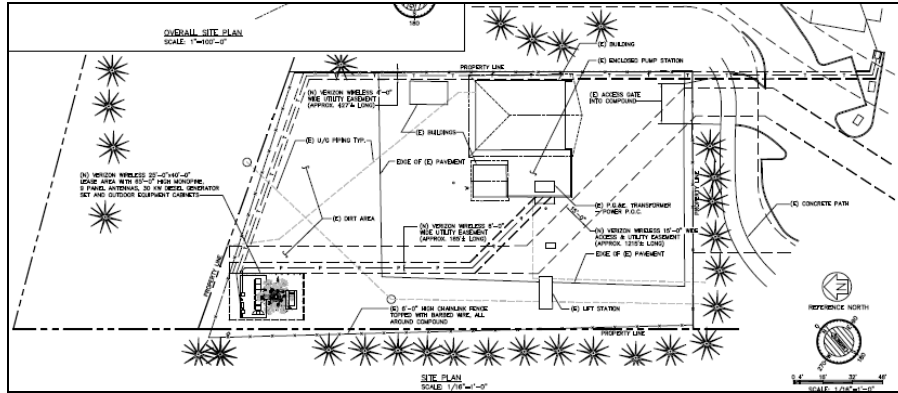
The subject site is approximately 0.718-acre in size, and is one of the City's sewer pump stations. Access to the site is via Koll Center Parkway and through a parking lot.



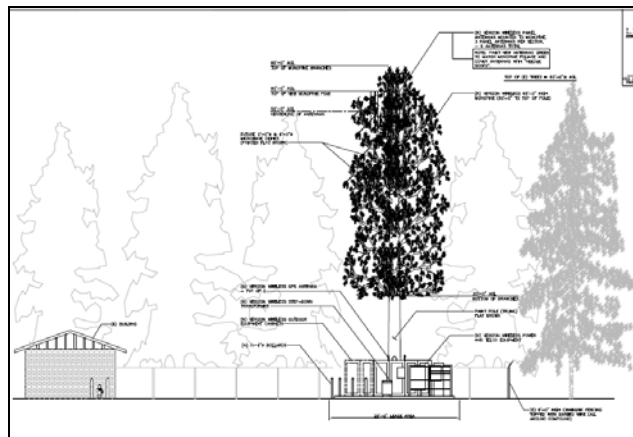
Location Map

PROJECT DESCRIPTION

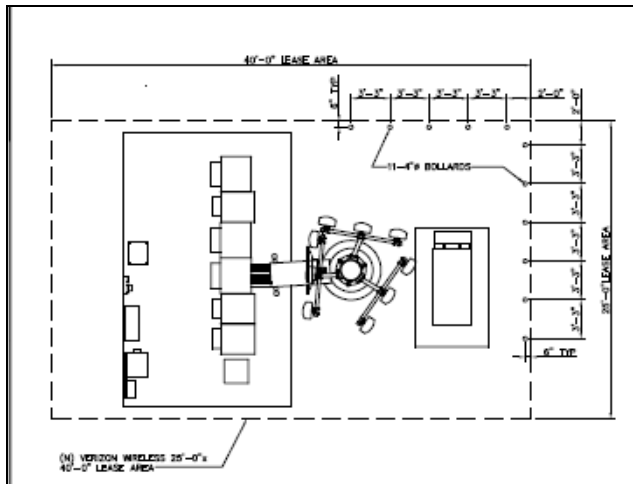
The applicant, Mark Lobaugh/Complete Wireless Consulting Inc., proposes to construct a faux pine tree that is approximately 65 feet in height to be operated as a wireless facility for Verizon Wireless. The proposed faux pine tree would include nine panel antennas, two future microwave dishes, ground mounted equipment cabinets, and a 30KW standby generator providing power to the wireless facility in the event of power failure/outage.



Site Layout



North View of the Proposed Faux pine tree



Birdseye View of the Proposed Wireless Facility

DISCUSSION

Neighbors' Concerns:

The application was originally submitted on September 21, 2009. After several meetings with the applicant and site visits, staff sent a notice regarding the proposal to surrounding property owners/residents on April 20, 2010.

As a result of the project notification, staff received comments from neighbors residing on Corte Monterey, located on the opposite side of the Arroyo Del Valle. The neighbors, represented by Nancy Wedge and Stacey Holh, expressed concerns regarding visual impact, health effects¹, and property values. On June 9, 2010, staff and the applicant met with the majority of the neighbors on Corte Monterey. The residents again reiterated their concerns and questioned the necessity of locating the facility near their homes.



Concerned Residents on Corte Monterey

The applicant stated that the intent of the proposed wireless facility is to provide coverage to residential neighborhoods of Highland Oaks, Oak Hill, Foothill Knolls, Laguna Oaks, Valley Trails, and Del Prado. According to the applicant, the proposed location is the southern-most possible location in order to achieve the targeted coverage. As such, the applicant stated that other locations are not feasible.

The residents requested that the applicant investigate an alternative location, including locations in the southern part of the business park so that the proposed facility would be located further away from their homes and would be out of sight.

¹ The Federal Telecommunications Act specifically pre-empts local agencies ability to deny a project based on concerns about "health effects." If a project meets federal standards for radio frequency and other emissions, a local agency cannot apply different standards. Verizon submitted a RF report indicating that the proposed facility meets federal standards.

Feasibility of Co-location

Following the neighborhood meeting, on multiple occasions (June 24, 2010, July 2, 2010 and July 15, 2010), staff requested that the applicant investigate the feasibility of co-locating the proposed facility with T-Mobile, who currently has a facility located at 6870 Koll Center Parkway, a building located approximately 1,000 feet south of the proposed site. Specifically, staff requested an analysis as to how the coverage would change if the proposed facility is located approximately 1,000 feet to the south. Additionally, staff requested that the photo simulations of the views of the proposed faux pine tree from I-680 be enhanced.

The applicant did not respond to staff's requests.

The Zoning Administrator's Decision:

On July 27, 2010, staff sent a certified letter to the applicant stating that if the previously requested information was not submitted with seven (7) days, staff would prepare a letter of denial.

On August 4, 2010, because the previously requested information was not provided, the Zoning Administrator denied the proposal (See Exhibit C). The decision was rendered based on the applicant's failure to comply with Municipal Code Section 18.110.040 regarding alternative site investigation, Section 18.110.070 requiring stealth techniques to camouflage, disguise, and blend in the proposed faux pine tree with the surrounding environment and for failure to provide sufficient photographic simulations.

The Appeal:

On August 19, 2010, the applicant filed an appeal of the Zoning Administrator's denial (Exhibit E). The appeal cited the following reasons:

1. Applicant states: The current use of the parcel as a pumping station provides a compatible co-use of a large, unused portion of the city owned service yard.

Staff's comments: The existing pump station is located on the east side of the property, which may have left the impression that the subject property is under utilized. In fact, there are many underground utility lines located in an easement in the western (left) and southern (front) of the site prohibiting the placement of structures directly above. The utility lines include a sewer air line located in close proximity of the proposed wireless facility. If the proposed wireless facility is approved by the Planning Commission, staff will include a condition (Condition No. 3) requiring a field survey to determine the final location of the wireless facility. If the existing sewer air line needs to be relocated, the construction would be done at the applicant's cost and per the City's standard specifications. The applicant is aware of this requirement.

Although the compatibility of the wireless facility with the use of the pump station parcel would be considered as part of the project review, in this particular case, this proposal was denied based on the failure to comply with Pleasanton Municipal Code sections 18.110.040 and 18.110.070.

2. Applicant states: The site is owned by the City and has the approval of the City Manager and as such will provide revenue to this municipality.

Staff's comments: On July 21, 2009, the City Council approved an Option and Land Lease Agreement with Verizon Wireless, allowing a wireless facility to be located on the City owned property. The Option and Land Lease Agreement requires the proposed wireless facility comply with the City's wireless ordinance. Additionally, the agreement provides and Verizon Wireless has been advised that the City retains its full discretionary land use authority over the planning application for the proposed wireless facility. The City's prior approval of the lease does not guarantee zoning approval or replace the zoning approval. A copy of the staff report to the City Council regarding the lease is included as Exhibit D.

3. Applicant states: The site is extremely well screened from public view by a large, mature grove of redwood trees and other vegetation. In addition, the proposed site lies within a large, fenced compound that allows even greater separation between the proposed facility and the public. In addition, a "faux pine" tower design has been proposed in order to further screen the tower from the public view. This proposed "tree" has been extensively vetted by staff in order to match existing foliage as closely as possible.

Staff's comments: The Google aerials below show that a line of mature trees is located along the westerly property line, separating the subject site from I-680. Additionally, bushes and shrubs are seen along the arroyo.



West View of the Subject Site

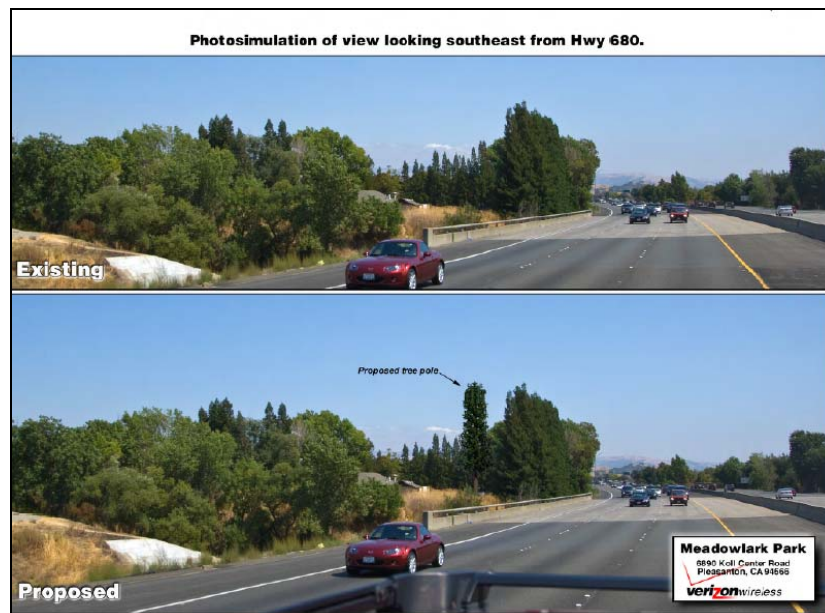


North View of the Subject Site

Although the site is well screened along the westerly property, the residents on Corte Monterey stated that the proposed faux pine tree will be visible from their court during the fall and winter months when deciduous trees between the subject site and Corte Monterey lose their leaves. When that occurs, the proposed faux pine tree will be in plain view from the residential neighborhood. As such, the residents request the facility be relocated so that it would no longer be visible from Corte Monterey. The photo above shows that there is a gap in the foliage along the north side of the property.

Staff has had many discussions with the applicant regarding details of the faux pine tree. The applicant was able to design the faux pine with bark texture, leaf color, and branch density that closely matches the existing coastal redwoods nearby. Staff notes that a faux redwood is not available.

However, the photo simulations of the proposed faux pine tree were taken from a distance, and staff has requested that the photo simulations be taken from locations closer to the proposed facility so that it would provide a better visual presentation in terms of how visible the antenna panels, especially the microwave dishes, might be for the concerned neighbors. Unfortunately, the applicant did not respond to this request.





If the Planning Commission upholds the appeal, thereby approving Case No. PDRW-38, staff has added a condition (Condition No. 4) requiring evergreen vegetation be planted on the subject site to screen the proposed facility when viewed from the Corte Monterey neighborhood.

4. Applicant states: Meeting the very specific requirements for telecom sites is extremely difficult in this highly developed and densely populated portion of the City. This site provides ample room for ground equipment, tower screening and separation from the public, making it an ideal candidate for the proposed use.

Staff's comments: The proposed facility meets the 300 feet locational requirement – 300 feet from the proposed wireless facility to the property lines of a residential district. However, as previously mentioned, due to seasonal changes during the winter, the proposed faux pine tree may be in plain view of the Corte Monterey neighborhood. Visual impact is one of the concerns raised by the neighbors. For this reason, staff has requested that the applicant investigate the feasibility of co-locating the facility with an existing wireless facility by another carrier located approximately 1,000 feet to the south. The applicant indicated that shifting the proposed facility further south would not be feasible; however, no specific reasons or analysis of how much coverage may be changed or lost has been provided to support this representation.



5. Applicant states: This site has been designed to accommodate future carriers and could provide the additional benefit of limiting the need for additional towers in this service area.

Staff's comment: The wireless ordinance encourages co-location of wireless facilities. However, unless the City's concerns regarding visual impacts are addressed, this proposal is not consistent with the City's wireless ordinance.

Alternative Site Selection

Section 18.110.040 of the Pleasanton Municipal Code requires the applicant to investigate alternative sites and explain the site selection process, including the reasons for their rejection, provided that such alternatives exist and are reasonably available for the personal wireless services provider's use in the coverage area. The applicant has studied other locations that would provide the targeted coverage; however, none of these locations meet the locational requirement of the wireless ordinance as they are located in residential districts, where wireless facilities are prohibited. As such, staff requested that locations within the same business park (i.e. Bernal Business Park) which meet the locational requirement be investigated in particular the existing building that currently has a wireless facility. The applicant indicated that they have done so and that "the office park to the south of the proposed site has been determined to be too far outside of the required service area for which this site and as such, is not being considered at this time." No further explanations, coverage maps, or other information was provided as to why these locations are not feasible.

Stealth Techniques

Section 18.110.070 (Stealth Techniques) of the Pleasanton Municipal Code requires all personal wireless service facilities to incorporate appropriate stealth techniques to camouflage, disguise and/or blend the facilities into the surrounding environment in order to minimize visibility.

Section 18.110.050 (locational standards) provides that personal wireless service facilities at a location readily visible from the I-680 “shall be prohibited unless accompanied by a rigorous demonstration by the personal wireless service provider, and approved by the zoning administrator, that there shall not be any adverse visual impact, that no other sites are reasonably available, and that every effort has been made to incorporate stealth techniques.”

Based on the code requirements, staff has requested that the applicant investigate co-location within the business park, as well as provide enhanced photo simulations of the views of the proposed facility from I-680. The applicant did not respond to staff’s multiple requests.

Options for the Planning Commission to consider are to:

1. Continue this matter and, require that the applicant provide additional information within ten (10) business days (by October 6, 2010) as requested by staff in the letter dated August 4, 2010, and any other information reasonably requested by the Commission;
2. Uphold the appeal, thereby approve Case No. PDRW-38, subject to the Conditions of Approval listed in Exhibit A;
3. Uphold the Zoning Administrator’s denial of PDRW-38, thereby denying Case No. PAP-148.

PUBLIC NOTICE

Notice of this application and appeal was sent to all property owners and tenants within 1,000 feet of the subject property. At the time this report was being prepared, no one had contacted staff regarding the proposed project.

ENVIRONMENTAL ASSESSMENT

This project is categorically exempt from Section 15301(a) of the California Environmental Quality Act (CEQA). Thus, no environmental report is accompanies this staff report.

CONCLUSION

Staff recommends that the applicant provide the additional information previously requested by staff so that a thorough review of the project could be conducted. Absent that information being provided, the appeal should be denied, and therefore the project denied.

STAFF RECOMMENDATION

Staff recommends that the Planning Commission consider Option No. 1.

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